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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,613	01/05/2004	Barry Dierkes	RACK-0100	2427

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EXAMINER

CHAN, KO HUNG

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/751,613	Applicant(s) DIERKES, BARRY	
	Examiner Korie H. Chan	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 5-16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election with traverse of elected species 2, figure 6 in the reply filed on December 23, 2005 is acknowledged. The traversal is on the ground(s) that examiner has not follow the restriction practice of limiting the groups to independent and distinct inventions where the claims are not connected by design, operation, effect. This is not found persuasive because applicant is confused with a "restriction" requirement under 37 CFR 1.142 and Election of species requirement under 37 CFR 1.146. Election of species under 37 CFR 1.146 was issued. As stated in the previous Office Action, should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention. As applicant has not submit such evidence, the election of species stands.

The requirement is still deemed proper and is therefore made FINAL.

Further regarding claims 5 and 6, applicant has submitted that the features claimed in claims 5 and 6 are not found in the elected embodiment of figure 6 but rather the non-elected embodiment of figure 8 and consequently claims 5 and 6 are hereby withdrawn as directed to a nonelected species.

Additionally, newly submitted claims 10-16 does not read on the elected embodiment of figure 6. Claims 10-16 are drawn to figure 8 embodiment which is non-elected specie.

Claims 1-3 and 5-16 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 23, 2005.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's recitation that the compass and level is coupled to the base is vague and indefinite since the compass (attached to 49) and level (attached to 111) are not both attached to the base.

Claim Rejections - 35 USC § 103

Claims 17-19 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginther et al (US publication no. 20020005816) in view of Koskinen (US patent no. 3,568,963). Ginther discloses a satellite dish mount comprising a base (10) having a top portion (top surface of base plate 10) and a bottom portion (bottom surface of base plate (10), a compass (16) and a level (18) and attachment means

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(fasteners that extend through plate 10) for securing the base, an attachment (8) mates with the base and coupled to a satellite dish (12), azimuth measuring means (paragraph 0013) . However, Ginther does not disclose a base of polymeric material having a top portion with interior ring that defines a chamber with a threaded portion for receiving an attachment and a bottom portion. Koskinen teaches providing a base (20) having a top portion with interior ring (24) that defines a chamber (inside 24) with a threaded portion (figure 2) for receiving an attachment (22) and a bottom portion (40 and 42). It would have been obvious to one of ordinary skilled in the art to have modify the base of Ginther such that the base has a top portion with an interior ring having threads therein for threadably engaging the attachment member as taught by Koskinen.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginther et al (US publication no. 20020005816) in view of Koskinen (US patent no. 3,568,963) as applied to claim 17 above, and further in view of Thornell (US patent no. 4,793,611). Ginther and Koskinen combined disclosed all the claimed features of applicant's invention except for the base is of polymeric material. To make base of polymeric material has the well-known advantage of having less expensive base material. Thornell teaches a base (20) of plastic material (col. 2, line 20). It would have been obvious to one of ordinary skill in the art to have modify the base of Ginther and Koskinen combined such that the base are of polymeric material as taught by Thornell so as to provide an economical base.

Claim 4 is allowed.

Response to Arguments

Applicant's arguments with respect to claim 4 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Korie H. Chan
Primary Examiner
Art Unit 3632

khc
March 15, 2006